

## **REMARKS**

In response to the Office Action mailed on September 29, 2010, the Assignee respectfully requests reconsideration based on the above amendments and the following remarks.

Claims 1-4, 6, 9-11, and 14-25 are pending in the present application. Claims 1, 3, 4, and 15 have been amended. Claims 6 and 18 have been cancelled without prejudice of disclaimer. New claims 26 and 27 have been added. No new matter has been added.

### **Support for Claim Amendments**

The amendments to claims 1, 3, 4, and 15, as well as new claims 26 and 27 are fully supported in Assignee's specification, drawings, and claims as originally filed. In particular, claims 1 and 15 have been amended to include features previously recited in claim 6, which is now cancelled. Claims 3 and 4 have been amended to remove features which are now incorporated into new claims 26 and 27, respectively. Thus, no new matter has been entered by these amendments.

### **Claim Rejections 35 U.S.C. § 103**

Claims 1-4, 6, 9-11, and 15-20 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent No. 7,113,479 to Wong et al. (hereinafter "Wong") in view of U.S. Patent No. 6,738,348 to Rollins (hereinafter "Rollins").

Claims 14 and 21-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,113,479 to Wong et al. (hereinafter "Wong") in view of U.S. Patent No. 6,738,348 to Rollins (hereinafter "Rollins") as applied to Claim 15 above, and further in view of U.S. Publication No. 2004/0215806 to Brenner, et al (hereinafter "Brenner"). Assignee respectfully traverses the rejection of claims 14 and 21-25.

The Assignee respectfully traverses the rejections of claims 1-4, 9-11, 14-17, and 19-25 for at least the reasons presented herein.

Independent claim 1 has been amended to recite, *inter alia*, “wherein a portion of the turbo boost triggering criteria is defined by the service provider system, the portion of the turbo boost triggering criteria defined by the service provider system is stored in a default preference list, wherein at least one of the turbo boost triggering criteria in the default preference list is modifiable by the user, and at least one of the turbo boost triggering criteria in the default preference list is not modifiable by the user.”

The Examiner states that Wong discloses these features, citing column 5, lines 42-60 in support (Office Action, page 4). Wong discloses the ISP rate controls traffic to a subscriber (column 5, lines 42-45). Wong fails to disclose a portion of turbo boost triggering criteria defined by the service provider system, which is stored in a default preference list, and wherein one or more turbo boost triggering criteria in the default preference list is modifiable by the user, and one or more turbo boost triggering criteria in the default preference list not modifiable by the user, as recited in claim 1. As disclosed in Wong, the ISP controls the rate of traffic unless the subscriber pays additional fees for more bandwidth (column 5, lines 42-45). Rollins fails to cure the aforementioned deficiencies of Wong. The Examiner relies upon Rollins for allegedly disclosing using a trigger for increasing bandwidth. Rollins discloses a user may ‘click’ on an icon which causes the client subsystem to generate signals on the DSL to submit a request to the NSP to increase the bandwidth (column 3, lines 59-67). This request is evaluated by the NSP to determine different increased bandwidth options and provides the user with available selections to choose from (column 4, lines 1-9). Thus, ***the options provided by the NSP are not modifiable the user***, rather the user selects from ***only those options provided by the NSP***. Accordingly, for at least this reason, claim 1 is patentable over Wong and Rollins, both alone and in combination.

Claims 2-4, 9-11, and 14 are believed to patentable over Wong and Rollins for at least the reason they depend from what is believed to be a patentable base claim 1.

Independent claim 15 has been amended to recite, *inter alia*, “wherein a portion of the turbo boost triggering criteria is defined by the service provider system, the portion of the turbo boost triggering criteria defined by the service provider system is stored in a default

preference list, wherein at least one of the turbo boost triggering criteria in the default preference list is modifiable by the user, and at least one of the turbo boost triggering criteria in the default preference list is not modifiable by the user.”

The Examiner states that Wong discloses these features, citing column 5, lines 42-60 in support. Wong discloses the ISP rate controls traffic to a subscriber (column 5, lines 42-45). Wong fails to disclose a portion of turbo boost triggering criteria defined by the service provider system, which is stored in a default preference list, and wherein one or more turbo boost triggering criteria in the default preference list is modifiable by the user, and one or more turbo boost triggering criteria in the default preference list not modifiable by the user, as recited in claim 15. As disclosed in Wong, the ISP controls the rate of traffic unless the subscriber pays additional fees for more bandwidth (column 5, lines 42-45). Rollins fails to cure the aforementioned deficiencies of Wong. The Examiner relies upon Rollins for allegedly disclosing using a trigger for increasing bandwidth. Rollins discloses a user may ‘click’ on an icon which causes the client subsystem to generate signals on the DSL to submit a request to the NSP to increase the bandwidth (column 3, lines 59-67). This request is evaluated by the NSP to determine different increased bandwidth options and provides the user with available selections to choose from (column 4, lines 1-9). Thus, *the options provided by the NSP are not modifiable the user*, rather the user selects from *only those options provided by the NSP*. Accordingly, for at least this reason, claim 15 is patentable over Wong and Rollins, both alone and in combination.

Moreover, the Assignee submits that the rejection of claim 15 is improper because the Office Action fails to address each and every claim feature recited therein (i.e., the arguments presented on pages 5-7 do not correlate to the language in the claim). For example, claim 15 recites that the turbo boost triggering criteria *are defined by a user* of the network turbo boost service, and the Examiner attempts to quote Assignee’s claim 15, stating: “a plurality of turbo boosts triggering criteria *associated with a user*,” which is clearly different than the current wording provided in Assignee’s claim 15. In addition, the Assignee’s claim 15 recites, “if the monitoring results in locating the task that meets the turbo boost triggering criteria then transmitting an offer to the user to invoke the network turbo boost service for the task; and invoking the network turbo boost service for the task if the user responds to the

offer by request that the network turbo boost service be invoked for the task.” None of these recited features in claim 15 are addressed in the Office Action. The Assignee submits that these features are patentable over the cited references, both alone and in combination.

Claim 16 recites, *inter alia*, “[A] method of providing a network turbo boost service, the method comprising:

receiving at a service provider system turbo boost automatic triggering criteria and turbo boost offer triggering criteria, at least one of the turbo boost automatic triggering criteria and at least one of the turbo boost offer triggering criteria defined by a user of the network turbo boost service, the turbo boost automatic triggering criteria and the turbo boost offer triggering criteria received via a user interface provided by the network turbo boost service;

monitoring, at the service provider system, a network for a task that meets one of the turbo boost offer triggering criteria and the turbo boost automatic triggering criteria;

if the monitoring results in locating the task that meets the turbo boost offer triggering criteria then transmitting an offer to the user to invoke the network turbo boost service for the task that meets the turbo boost offer triggering criteria;

invoking the network turbo boost service for the task that meets the turbo offer triggering criteria if the user responds to the offer by requesting that the network turbo boost service be invoked, wherein the turbo offer triggering criteria includes one of: when a large incoming file is detected; when a large outgoing file is detected; when a destination address is on a list of high transmission rate applications; and when a request is received from an application that requires downloading of application code data; and

if the monitoring results in locating the task that meets the turbo boost automatic triggering criteria then invoking the network turbo boost service for the task that meets the turbo boost automatic triggering criteria;

wherein the turbo boost automatic triggering criteria includes a network-based trigger.”

The Examiner rejects claim 16 as being allegedly unpatentable over Wong in view of Rollins (Office Action, pages 7-9). The Assignee submits that the rejection of claim 16 is improper because the Office Action fails to address each and every claim feature recited therein (i.e., the arguments presented through pages 7-9 do not correlate to the actual features recited in the Assignee's claim 16). For example, claim 16 recites, *inter alia*, "receiving...turbo boost ***automatic triggering criteria and turbo boost offer triggering criteria...defined*** by a user," and the Examiner attempts to quote Assignee's claim 16, stating "receiving at a service provider system an [sic] at least one turbo boost automatic triggering criteria of a plurality of turbo boost automatic triggering criteria associated with a user," which is clearly different than the current wording provided in Assignee's claim 16. The remainder of claim 16 is also different than the wording provided in the Office Action and relied upon for the rejections.

The Examiner rejects independent claims 17 and 20 as being substantially the same as claim 15 above (Office Action, page 10). The Assignee respectfully disagrees. The features recited in claims 17 and 20 are vastly different than those recited in claim 15. Thus, it is improper to reject claims 17 and 20 as being substantially similar to claim 15. Moreover, the Assignee submits that claims 17 and 20 are patentable over Wong and Rollins, both alone and in combination. Claim 19 is believed to be patentable for at least the reason it depends from a patentable base claim 17.

Independent claim 21 recites, *inter alia*, "[A] computer program product providing a network turbo boost service, the computer program product comprising:

a non-transitory storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for facilitating a method comprising:

receiving a set of at least one available network turbo boost triggering options, where the set of at least one available network turbo boost triggering options includes destination addresses for which high speed transfer on a network will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a

request is received from an application that typically requires downloading of application code data, where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address;

offering the available network turbo boost triggering options to a user;

detecting selection of a network turbo boost triggering options by the user;

and

communicating the selection of the network turbo boost triggering option to a network service provider system;

wherein the application that typically requires downloading of application code data executes on an application provider system separate from a network service provider system, and the request is generated by the application that typically requires downloading of application code data independent of information about a current traffic load on the network;

wherein at least one of the network turbo boost triggering options is defined by the user.”

The Examiner relies upon Brenner for allegedly teaching, “receiving a set of at least one available network turbo boost triggering options, where the set of at least one available network turbo boost triggering options includes destination addresses for which high speed transfer on a network will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data, where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination

addresses include a gaming application address and a video conferencing address,” citing paragraph [0020] in support.

Brenner discloses determining a size of a file and bandwidth available, calculates the download time, and sends an offer to the client to increase its bandwidth (paragraph [0020]). There is no mention anywhere in Brenner of any type of notifications, as recited in claim 21. Nor is there any reference to notifications responsive to the recited features provided above in claim 21. For at least this reason, Brenner fails to cure the aforementioned deficiencies of Wong and Rollins. Claim 21 is believed to be patentable over Wong, Rollins, and Brenner both alone and in combination. Claims 22 and 23 are believed to be patentable over the cited references at least for the reason they depend from an allowable base claim.

Independent claim 24 recites, *inter alia*, “[A] computer program product for providing a network turbo boost service, the computer program product comprising:

a non-transitory storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for performing a method comprising:

receiving a set of at least one available network turbo boost triggering options, where the set of at least one available network turbo boost triggering options includes destination addresses for which high speed transfer on a network will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data, where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address;

selecting at least one of the network turbo boost triggering options;

communicating the selection of the at least one network turbo boost triggering

option to a network service provider system;

wherein the application that typically requires downloading of application code data executes on an application provider system separate from a network service provider system, and the request is generated by the application that typically requires downloading of application code data independent of information about a current traffic load on the network; and

wherein at least one of the network turbo boost triggering options is defined by a user.”

The Examiner relies upon Brenner for allegedly teaching, “receiving a set of at least one available network turbo boost triggering options, where the set of at least one available network turbo boost triggering options includes destination addresses for which high speed transfer on a network will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data, where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address,” citing paragraph [0020] in support.

Brenner discloses determining a size of a file and bandwidth available, calculates the download time, and sends an offer to the client to increase its bandwidth (paragraph [0020]). There is no mention anywhere in Brenner of any type of notifications, as recited in claim 24. Nor is there any reference to notifications responsive to the recited features provided above in claim 24. For at least this reason, Brenner fails to cure the aforementioned deficiencies of Wong and Rollins. Claim 24 is believed to be patentable over Wong, Rollins, and Brenner both alone and in combination. Claim 25 is believed to be patentable over the cited references at least for the reason it depends from an allowable base claim.



New claim 26 recites, “wherein the network-based trigger includes:

detecting a destination address that is on a list of high transmission rate applications.”

New claim 27 recites, “wherein the user client-based trigger includes:

detecting a file transfer time that is larger than a pre-selected time.”

Neither of the features is disclosed in the cited art references, either alone or in combination.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested.

## **CONCLUSION**

It is believed that the foregoing amendments and remarks are fully responsive to the Office Action and that the claims herein are in condition for allowance. In the event the Examiner has any questions regarding the instantly submitted response, the undersigned respectfully request the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully Submitted,

CANTOR COLBURN LLP

By /Marisa J. Dubuc/

Marisa J. Dubuc  
Registration No. 46,673  
20 Church Street, 22<sup>nd</sup> Floor  
Hartford, CT 06103-3207  
Telephone: (860) 286-2929  
Facsimile: (860) 286-0115  
Customer No. 36192

Date: December 7, 2010